



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	22607(01) Rev.
	Date Issued: _____	31 August 2004
	Comments Due: _____	16 September 2004

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT: Ross Novelli, Jr.
4171 Pirates Beach
Galveston, Texas 77554-8042

AGENT: Shelmark Engineering
1011 East Main Street
League City, Texas 77573-2449
Telephone: 281-338-9986
POC: Marcus Michna

LOCATION: The project is located in wetlands and shallow open water on the west end of Galveston Island, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Sea Isle, Texas. Approximate UTM Coordinates: Zone 15; Easting: 302340; Northing: 3226003.

PROJECT DESCRIPTION: A public notice was distributed for this project on March 23, 2004. The current public notice is being distributed to solicit comments as a result of modifications to the project plans. The revisions include a clearer depiction of the permit area and the project impacts, and a more detailed mitigation plan. The applicant proposes to dredge a boat access channel and excavate a boat basin for a waterfront subdivision. The proposed development includes 164 residential lots and water circulation channels.

One main channel will be dredged to provide access to West Galveston Bay. A total of 28,370 cubic yards of material will be mechanically dredged from the Main Channel and east and west circulation channels. Some of this material will be used to assist with shoreline creation along the north shore of the created boat basin with the remainder of the material being used to raise the elevation of lots. A total of 18,535 cubic yards of material will be hydraulically dredged from the remainder of the main access channel and used to fill 1,350 feet of a 7-foot diameter geotube breakwater and 8.98 acres of shallow water that will result in the creation of approximately 4.49 acres of intertidal marsh. The excavation will impact 5.09 acres of intertidal wetlands, 1.51 acres of freshwater wetlands and an additional 3.10 acres of jurisdictional waters (freshwater ponds). To offset project impacts the applicant proposes to construct the beneficial use site described above, create an additional 5.54 acres of intertidal wetlands, create 2.16 acres of freshwater wetlands and 3.45 acres of freshwater ponds. In addition, the applicant proposes to set aside 30.94 acres as an open space reserve. These areas will be deed restricted. The applicant's plans are enclosed in 23 sheets.

NOTES: This public notice is being issued based on information furnished by the applicant. This information has not been verified.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

This project would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 15 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice.

The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The permit area is likely to yield resources eligible for inclusion in the National Register of Historic Places. An investigation for the presence of potentially eligible historic properties is justified.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **16 September 2004**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

Jeff Hill
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3133 Phone
409-766-3931 Fax

DISTRICT ENGINEER
GALVESTON DISTRICT
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